

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MISAEAL MONTALVO,

Plaintiff,

v.

DECISION AND ORDER

14-CV-6251 EAW

COMMISSIONER OF CORRECTION F. LAMY,
COMM. CORR. F. SULLIVAN, SHERIFF T.
HOWARD; UNDERSHERIFF MARK
WIPPERMAN; SUPER. T. DIINA; FIRST D.S. M.
REARDON; CHIEF HARRIS; CAPT. HARTMAN;
SGT. USINSKI; SGT. KUPPEL; SGT. DIAMOND;
SGT. MCANDREW; SGT. JOHN DOE; DEP.
SHERIFF JOHN DOE; DEP. SHERIFF BROWN;
DEP. SHERIFF HARVEY; NURSE PRACTITIONER
SHARON; NURSE PRACTITIONER JANET;
DEPUTY BROWN; COUNTY OF ERIE; KEEFE
KIOSK ENTITY; THOMAS REUTER; AND
THOMAS J. LOUGHREN,

Defendants.

On January 26, 2015, certain Defendants filed a motion to dismiss the complaint. (Dkt. 12). On January 27, 2015, the Court entered a scheduling order with respect to the motion to dismiss setting response and reply deadlines of February 17, 2015, and March 3, 2015, respectively. (Dkt. 16).

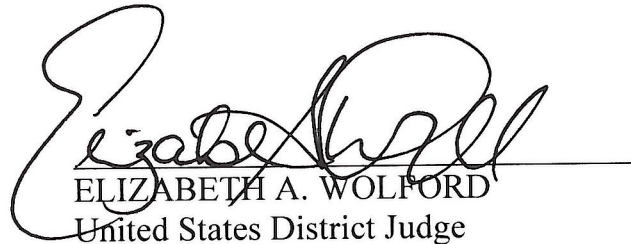
On February 12, 2015, Plaintiff filed a "Motion for Counsel and Extension of Time to Respond to Motion to Dismiss Complaint." (Dkt. 17). In his motion, Plaintiff asks that he be appointed counsel because he is "clearly not an attorney and is nowhere near experienced enough to proceed with this case Pro Se." (*Id.* at ¶ 1). Plaintiff further requests an extension of his response deadline with respect to the motion to dismiss until

May 2, 2015, because he “is currently housed in 24 hour segregation and does not have access to legal materials. . . .” (*Id.* at ¶ 6).

There is insufficient information before the Court at this time to make the necessary assessment of Plaintiff’s claims under the standards promulgated by *Hendricks v. Coughlin*, 114 F.3d 390 (2d Cir. 1997) and *Hodge v. Police Officers*, 802 F.2d 58 (2d Cir. 1986). Plaintiff’s request for counsel is denied as premature without prejudice to renewal once the record has been further developed.

Plaintiff’s request for an extension of his response deadline with respect to the motion to dismiss is granted. Because Plaintiff’s requested deadline of May 2, 2015, falls on a Saturday, the Court extends the deadline to May 4, 2015. The moving Defendants’ reply papers, if any, shall be filed on or before May 18, 2015.

SO ORDERED.



ELIZABETH A. WOLFORD
United States District Judge

Dated: February 13, 2015
Rochester, New York